

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**ANDREW SPENCER,**  
**Plaintiff,**

**v.**

**DEPUTY STEVEN WALLS,**  
**Defendant.**

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**CIVIL ACTION NO. 18-CV-2761**

**ORDER**

AND NOW, this 16<sup>th</sup> day of July, 2018, upon consideration of Plaintiff Andrew Spencer's Motion to Proceed *In Forma Pauperis* (ECF No. 1), his Prisoner Trust Fund Account Statement (ECF No. 3), and his *pro se* Complaint (ECF No. 2), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Andrew Spencer, #2010-3087, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b). Based on the financial information provided by Spencer, he is not assessed an initial partial filing fee. In each month when the amount in Spencer's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Spencer's inmate trust fund account until the fees are paid. Each payment shall reference the docket number for this case, Civil Action No. 18-2761.
3. The Clerk of Court is **DIRECTED** to send a copy of this order to the Warden of the Berks County Jail.
4. Spencer's civil rights Complaint is **DISMISSED** for failure to state a claim for relief. The dismissal is without prejudice to Spencer challenging the charges against him in state court or, if appropriate, in a federal *habeas corpus* proceeding after exhausting state remedies. If

Spencer ultimately files a petition for *habeas corpus*, that petition should be docketed as a new civil action.

5. Spencer may, within thirty (30) days of the date of this Order, file an amended complaint against Deputy Walls in the event he seeks relief other than dismissal of the charges against him. Any amended complaint shall not ask the Court to dismiss criminal charges pending against Spencer or to otherwise intervene in Spencer's criminal proceedings. The Clerk of Court shall not make service until so **ORDERED**.

6. If Spencer fails to file an amended complaint, this case may be dismissed without prejudice for failure to prosecute without further notice.

**BY THE COURT:**

**/s/ Mitchell S. Goldberg**

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**MITCHELL S. GOLDBERG, J.**